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10/087,014

PATENT  
Docket No.: 12013/59301

**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE**

APPLICANT(S) : Henrick HANSEN, et al.  
SERIAL NO. : 10/087,014  
FILING DATE : March 1, 2002  
FOR : COATING A MEDICAL IMPLANT USING A PAN COATER  
EXAMINER : Jennifer Kolb Michener  
GROUP ART UNIT : 1762  
CUSTOMER NO. : 23838

Mail Stop Petition  
Commissioner for Patents  
P.O. Box 1450  
Alexandria, VA 22313-1450

**PETITION PURSUANT TO  
37 C.F.R. § 1.182 FOR WITHDRAWAL OF AN  
ERRANT ELECTION OF SPECIES**

S I R:

The undersigned submits this petition pursuant to 37 C.F.R. § 1.182 seeking reentry of a claim erroneously withdrawn by the July 14, 2004, final Office action. The withdrawn claim should be entered and examined on the merits because it falls within the scope of the previously elected species and also because no credible argument exists that examining it can present a serious burden to the examiner.

The first Office action, mailed on November 24, 2003, included a two way election of species between group I, claims 1-19 and 25-28 (which are drawn to a method of coating) and

group II, claims 20-24 (which are drawn to computer readable medium). In their February 19, 2004, response, the applicants: (1) elected group I for further prosecution; (2) responded to the arguments in the action; and (3) added claim 29. Claim 29 is a method claim dependent from claim 1. Claim 29 includes all of the limitations from claim 1 and further regards a “method ... wherein interfacing the therapeutic with the tumbling implant includes tumbling the implant into a vat of therapeutic.” In response to the applicants amendment, in addition to rejecting all of the pending claims, the final Office action withdrew claim 29, arguing that it is drawn to a non-elected species.


The final Office action’s withdrawal of claim 29 is erroneous for several reasons. For one, claim 29, which depends from a member of group I, is squarely within the scope of the species defined in the first Office action and elected by the applicants - methods of coating. For another, the subject matter of claim 29, tumbling devices into a vat of therapeutic, falls squarely within the same class and sub-class of search identified by the first Office action as being applicable to group I (427/242 - Rumbling or Tumbling “[p]rocesses which include mechanically causing the base to be turned over and over during or after coating”). Thus, for at least each of these reasons, the undersigned submits that there is no proper basis to withdraw claim 29 from the case.

Accordingly, the undersigned hereby petitions that claim 29 be reinstated and examined on the merits.

Should any fees be due in conjunction with this petition, the Commissioner is hereby authorized to charge Kenyon & Kenyon's deposit account no. 11-0600.

Respectfully submitted,

Date: August 31, 2004

  
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## EXHIBIT A

1. (Previously Presented): A method of coating a medical implant comprising:  
placing a medical implant into a rotatable drum;  
tumbling the medical implant by rotating the drum for a predetermined amount of time;  
and  
interfacing a therapeutic with the tumbling medical implant.
2. (Original): The method of claim 1, further comprising: drying the therapeutic on the medical implant.
3. (Original): The method of claim 2, wherein drying the therapeutic on the medical implant includes spraying an inert gas into the drum.
4. (Original): The method of claim 1, further comprising: suspending the medical implants above an internal surface of the drum.
5. (Previously Presented): A method for applying a coating to a medical implant comprising:  
providing a pan coater, the pan coater including a drum having a bottom and a wall;  
placing a medical implant in the drum of the pan coater;  
rotating the drum about an axis, to tumble the medical implant, the drum containing a plurality of orifices in the wall;  
spraying a therapeutic into the drum to coat the medical implant; and  
removing the medical implant from the drum.
6. (Previously Presented): The method of claim 5, further comprising:  
collecting therapeutic in a therapeutic recovery reservoir, fluidly attached to the drum.

7. (Previously Presented): A method for applying a coating to a medical implant comprising:
- providing a pan coater, the pan coater including a drum having a bottom and a wall;
  - placing a medical implant in the drum of the pan coater;
  - rotating the drum about an axis, to tumble the medical implant, the drum containing a plurality of orifices in the wall;
  - spraying a therapeutic into the drum to coat the medical implant;
  - removing the medical implant from the drum;
  - forcing a compressible fluid from a compressible fluid source into the drum;
  - re-circulating the compressible fluid in the drum; and
  - waiting until the therapeutic on the medical implant is dry before removing the medical implant from the drum.
8. (Previously Presented): The method of claim 5, wherein spraying the therapeutic into the drum is repeated at least once.
9. (Previously Presented): A method for applying a coating to a medical implant comprising:
- providing a pan coater, the pan coater including a drum having a bottom and a wall;
  - placing a medical implant in the drum of the pan coater;
  - rotating the drum about an axis, to tumble the medical implant, the drum containing a plurality of orifices in the wall;
  - spraying a therapeutic into the drum to coat the medical implant;
  - removing the medical implant from the drum;
  - forcing a compressible fluid from a compressible fluid source into the drum;
  - re-circulating the compressible fluid in the drum;
  - waiting until the therapeutic on the medical implant is dry before removing the medical implant from the drum; and

heating the compressible fluid in the compressible fluid source prior to forcing the compressible fluid into the drum.

10. (Original): The method of claim 9, wherein the compressible fluid in the compressible fluid source is heated to a temperature in the range of 20 to 70 degrees centigrade.

11. (Original): The method of claim 9, wherein the compressible fluid in the compressible fluid source is heated to a temperature associated with a working temperature of the therapeutic.

12. (Previously Presented): A method for applying a coating to a medical implant comprising:

- providing a pan coater, the pan coater including a drum having a bottom and a wall;
- placing a medical implant in the drum of the pan coater;
- rotating the drum about an axis, to tumble the medical implant, the drum containing a plurality of orifices in the wall;
- spraying a therapeutic into the drum to coat the medical implant;
- drawing a compressible fluid into the drum; and
- removing the medical implant from the drum.

13. (Previously Presented): A method for applying a coating to a medical implant comprising:

- providing a pan coater, the pan coater including a drum having a bottom and a wall;
- placing a medical implant in the drum of the pan coater;
- rotating the drum about an axis, to tumble the medical implant, the drum containing a plurality of orifices in the wall;
- spraying a therapeutic into the drum to coat the medical implant;
- heating the rotatable drum after spraying the therapeutic into the drum; and
- removing the medical implant from the drum.

14. (Original): The method of claim 5, wherein the pan coater is provided with a compressible fluid suspension system that forces a compressible fluid into the drum with a force sufficient to maintain the medical implant aloft in the drum.
15. (Original): The method of claim 14, wherein the compressible fluid suspension system uses an inert gas to maintain the medical implants aloft.
16. (Original): The method of claim 14, further comprising: periodically activating the compressible fluid suspension system.
17. (Canceled)
18. (Previously Presented): The method of claim 5, further comprising:
  - passing therapeutic through the orifices; and
  - passing compressible fluid through the orifices.
19. (Previously Presented): A method for applying a coating to a medical implant comprising:
  - providing a pan coater, the pan coater including a drum having a bottom and a wall;
  - placing a medical implant in the drum of the pan coater;
  - rotating the drum about an axis, to tumble the medical implant, the drum containing a plurality of orifices in the wall;
  - spraying a therapeutic into the drum to coat the medical implant;
  - removing the medical implant from the drum; and
  - recycling therapeutic that did not adhere to the implant during spraying.
20. (Withdrawn): A computer readable medium storing instructions for operating a pan coater for coating a medical implant, the instructions comprising directions for the pan coater to:

rotate a drum to tumble a medical implant; spray a first therapeutic into the drum through a spray nozzle while rotating the drum; and stop the drum from rotating.

21. (Withdrawn): The computer readable medium of claim 20, storing further directions for the pan coater to: force a compressible fluid into the drum after spraying the first therapeutic into the drum.

22. (Withdrawn): The computer readable medium of claim 21, storing further directions for the pan coater to: heat the compressible fluid prior to forcing the compressible fluid into the drum.

23. (Withdrawn): The computer readable medium of claim 20 storing further directions for the pan coater to: draw a compressible fluid out of the drum through a compressible fluid exhaust opening.

24. (Withdrawn): The computer readable medium of claim 20 storing further directions for the pan coater to: spray a second therapeutic into the drum after a medical implant has been placed into the drum.

25. (Previously Presented): A method for applying a coating to a medical implant comprising:

- providing a pan coater, the pan coater including a drum rotatable about a longitudinal axis having a wall and a bottom, the wall having a plurality of orifices;

- placing a medical implant in the drum of the pan coater;

- injecting a compressible fluid into the drum with a force sufficient to maintain the medical implant aloft in the drum to tumble the medical implant;

- spraying a therapeutic into the drum to coat the medical implant; and

- removing the medical implant from the drum.



26. (Original): The method of claim 25, wherein the compressible fluid is an inert gas.
27. (Original): The method of claim 25, wherein the compressible fluid is also for drying the therapeutic on the medical implant.
28. (Original): The method of claim 25, further comprising: periodically injecting the compressible fluid into the drum.
29. (New): The method of claim 1 wherein interfacing the therapeutic with the tumbling implant includes tumbling the implant into a vat of therapeutic.  
bladder.